

J. W. McTIERNAN

IBLA 70-671

Decided July 15, 1971

Oil and Gas Leases: Acquired Lands Leases--Rules of Practice: Appeals: Statement of Reasons

The rejection of an acquired lands oil and gas lease offer will be affirmed where the deed to the United States reserves minerals to the grantor county and the appellant makes only general, unsupported assertions that the county lacked authority to reserve the minerals.

3 IBLA 19

IBLA 70-671 :

J. W. McTIERNAN

NM-A 12037 (Okla.)

: 12038

: 12039

: 12040

: 12041

: Acquired lands oil and gas

: lease offers rejected

: Affirmed

DECISION

J. W. McTiernan has appealed to the Director, Bureau of Land Management, 1/ from a decision of the Bureau's New Mexico land office, dated June 24, 1970, which rejected his noncompetitive acquired lands lease offers NM-A 12037 (Okla.) through NM 120341 (Okla.), filed pursuant to the Mineral Leasing Act for Acquired Lands, 30 U.S.C. § 351-59 (1964).

The appellant filed his lease offers on June 17, 1970, for lands in Ts. 14 N., Rs. 22 and 25 W., and in Ts. 13 and 15 N., Rs. 25 and 26 W., Ind. Mer., Oklahoma. The record shows that all the lands described in the five lease offers were acquired by the United States on various dates in 1942 and 1943.

1/ The Secretary of the Interior, in the exercise of his supervisory authority, transferred jurisdiction over all appeals pending before or addressed to the Director, Bureau of Land Management, to the Board of Land Appeals, effective July 1, 1970. Circ. 2273, 35 F. R. 10009, 10012.

The decision appealed from states that the offers are rejected in their entirety for the following reasons:

All of the minerals in the lands applied for are restricted and are not presently owned by the United States. The minerals will not vest in the United States until 50 years from the dates specified. . . .

If it was the offeror's intention to file for present interest leases, the offers were prematurely filed. If he intended to file for future interest leases, they were not accompanied by the evidence required under the regulation 43 CFR 3130.4-5(a) (formerly 3212.3(b)) set out in Circular 2189.

The appellant's statement of reasons for his appeal refers to the determination of the land office and states:

The State Constitution, statutes and public policy do not provide the county [the Board of County Commissioners, Roger Mills County, Oklahoma] with such powers to reserve minerals; therefore, when the U.S.A. receives title to said lands, it receives all of the mineral rights without limitation.

The third and final paragraph of the statement of reasons requests the issuance of leases.

The appellant's assertion of error in the land office decision is based upon conclusions not supported by citation of any legal authority. An appellant cannot avoid the duty of showing clearly and affirmatively wherein the decision appealed from is in error. Cf. Duncan Miller, 65 I.D. 290 (1958). Nor can an appellant shift to the Department the burden of determining whether an error has been committed. James L. Knight, A-27374 (September 19, 1956). Vague generalities, such as asserted herein, will not suffice. United States v. Cascade Calcium Products, Inc., A-31187 (November 4, 1969).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F. R. 12081), the decision appealed from is affirmed.

Francis Mayhue, Member

We concur:

Martin Ritvo, Member

Joan B. Thompson, Member

